

**2476 PREA Standards – Hiring, Promoting, Corrective and Disciplinary Actions for SYSC Personnel, Contractors, and Volunteers**

Chapter: **Sununu Youth Services Center**

Section: **Personnel**



New Hampshire Division for Children, Youth and Families Policy Manual

Policy Directive: **14-43**

Approved:

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Penny Sampson, SYSC Director

Maggie Bishop, DCYF Director

Related Statute(s): [RSA 169-B](#), [RSA 621](#), and [RSA 621-A](#)

Related Admin Rule(s): [Per 1000](#)

Related Federal Regulation(s): [P.L. 108-79](#)

**PREA Standards:** [317 \(a1\)](#), [317 \(a2\)](#), [317 \(a3\)](#), [317 \(b\)](#), [317 \(c1\)](#), [317 \(c2\)](#), [317 \(c3\)](#), [317 \(d\)](#), [317 \(e\)](#), [317 \(f\)](#), [317 \(g\)](#), [317 \(h\)](#), [376 \(a\)](#), [376 \(b\)](#), [376 \(c\)](#), [376 \(d\)](#), [377 \(a\)](#), and [377 \(b\)](#)

**Related Form(s):**

**Bridges' Screen(s) and Attachment(s):**

DCYF is committed to youth safety and well-being at all times including the safety of youth committed or detained at the Sununu Youth Services Center (SYSC). An essential component of youth safety and well-being is the staff hired. SYSC is committed to meeting all PREA Standards including those related to the hiring, promotion, corrective and disciplinary action for staff as well as to similar standards for contractors and volunteers.

**Purpose**

These standards detail the personnel practices and PREA Standards of all staff hired and/or promoted at the SYSC, and includes standards applicable to contractors and volunteers at the center.

**Definitions**

**"Client"** means any individual, who does not receive financial compensation for collaborating with the Division for Children, Youth and Families and is receiving a service from DCYF.

**"Colleague"** means a professional associate, including but not limited to: an employee - including supervisors, volunteer, or student intern assigned to DHHS regardless of position; court official; attorney; law enforcement officer; school employee; or employee of a provider agency serving children/youth.

**"DCYF"** or **"Division"** means the Division for Children, Youth and Families.

**"DHHS"** means the Department for Health and Human Services.

**"PREA"** means the Prison Rape Elimination Act of 2003 and includes the juvenile facility standards enacted on August 20th, 2012 and enforced by the U.S. Department of Justice to eliminate prison rape.

**"Sexual Abuse"** includes—

- (1) *Sexual abuse of a committed or detained youth by committed or detained youth* means any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuses:

- a. Contact between the penis and the vulva, or the penis and the anus, including any degree of penetration;
  - b. Contact between the mouth and the penis, vulva, or anus;
  - c. Any degree of penetration of the anal or genital opening of another person, by a hand, finger, object, or other instrument; and
  - d. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- (2) *Sexual abuse of a committed or detained youth by a staff member, contractor, or volunteer* includes any of the following acts, with or without consent of the committed or detained youth:
- a. Contact between the penis and the vulva, or the penis and the anus, including any degree of penetration;
  - b. Contact between the mouth and the penis, vulva, or anus;
  - c. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - d. Any degree of penetration of the anal or genital opening, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - e. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire;
  - f. Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in the activities described in sections (a) through (e) of this definition;
  - g. Any display by a staff member, contractor, or volunteer of his or her uncovered genitalia, buttocks, or breast in the presence of a committed or detained youth; and
  - h. Voyeurism by a staff member, contractor, or volunteer.

**“Sexual Harassment,”** pursuant to the Governor’s Policy on Sexual Harassment, means any unwelcome sexual advance, a request for a sexual favor, or other verbal or physical conduct of a sexual nature when:

- 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.
4. Further, in alignment with the Prison Rape Elimination Act (PREA), any repeated verbal comments or gestures of a sexual nature to a client or colleague by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.

**"SYSC," "John H. Sununu Youth Services Center," or the "Youth Detention Services Unit"** means the architecturally secure juvenile treatment facility administered by the DHHS Division for Children, Youth and Families for committed juveniles and for NH youth involved with the NH court system prior to their adjudication.

<b>Policy</b>
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I. Hiring, Promotion, and Contractor Standards:

- A. A criminal record check (115.317(c1)), a Division for Children, Youth and Families Central Registry check (115.317(c2)), and a Bureau of Elderly and Adult Services State Registry check shall be conducted on all new employees.
  1. If the individual is not a resident of the state of New Hampshire, the check(s) shall be completed with the appropriate Law Enforcement or state agencies for the individual's state of residency.
  2. DCYF shall also perform a criminal background records check, and consult applicable child abuse registries, before enlisting the services of any contractor who may have contact with youth (115.317(d)).
- B. The SYSC shall adhere to the following practices:
  1. Before hiring new employees who may have contact with youth, DCYF shall consistent with Federal, State, and local law, make its best efforts to contact all prior institutional employers for information on substantiated allegations of sexual abuse or any resignation during a pending investigation of an allegation of sexual abuse (115.317(c3)).
  2. DCYF shall not hire or promote anyone who may have contact with youth, and shall not enlist the services of any contractor who may have contact with these youth, who—
    - (a) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997) (115.317(a1));
    - (b) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse (115.317(a2)); or
    - (c) Has been civilly or administratively adjudicated for engaging in the activity described in (b) above (115.317(a3)).

3. DCYF shall directly ask all applicants and employees who may have contact with youth, about previous misconduct described in 2:(a)-(c) of this section in written applications or interviews for hiring or promotions, and in any interviews or written self-evaluations conducted as part of reviews of current employees.
4. DCYF also imposes upon employees a continuing affirmative duty to disclose any such misconduct (115.317(f)).
5. DCYF shall consider any incidents of sexual harassment in determining whether to hire or promote anyone, or to enlist the services of any contractor, who may have contact with youth (115.317(b)).
6. DCYF shall either conduct criminal background records checks at least every five years of current employees and contractors who may have contact with youth, or have in place a system for otherwise capturing such information for current employees (115.317(e)).
7. Material omissions regarding such misconduct, or the provision of materially false information, shall be grounds for termination (115.317(g)).
8. DCYF shall provide information on substantiated allegations of sexual abuse or sexual harassment involving a former employee upon receiving a request from an institutional employer for whom such employee has applied to work (115.317(h)).

## II. Disciplinary sanctions for staff:

- A. A Staff shall be subject to disciplinary sanctions up to and including termination for violating DCYF sexual abuse or sexual harassment policies including, but not limited to DCYF [Policy 2055 "Sexual Assault and Sexual Harassment"](#) (115.376 (a)).
- B. Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse (115.376 (b)).
- C. Disciplinary sanctions for violations of DCYF policies relating to sexual abuse or sexual harassment (other than actually engaging in sexual abuse) shall be commensurate with the nature and circumstances of the acts committed, the staff member's disciplinary history, and the sanctions imposed for comparable offenses by other staff with similar histories (115.376 (c)).
- D. All terminations for violations of DCYF sexual abuse or sexual harassment policies, or resignations by staff who would have been terminated if not for their resignation, shall be reported to law enforcement agencies, unless the activity was clearly not criminal, and to any relevant licensing bodies (115.376 (d)) .

## III. Corrective action for contractors and volunteers:

- A. Any contractor or volunteer who engages in sexual abuse shall be prohibited from contact with youth and shall be reported to the applicable law enforcement agency(ies), unless the activity was clearly not criminal, and to relevant licensing bodies (115.377 (a)).
- B. The SYSC shall take appropriate remedial measures, and shall consider whether to prohibit further contact with youth, in the case of any other violation of DCYF sexual abuse or sexual harassment policies by a contractor or volunteer (115.376 (b)).